



DIVISION OF DISABILITY AND ELDER SERVICES

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**To:** Hospices  
Home Health Agencies  
Nursing Homes  
Hospitals  
Community Based Residential Facilities  
Adult Family Homes  
Residential Care Apartment Complexes  
Facilities for the Developmentally Disabled

HSPCE 07  
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**From:** Cris Ros-Dukler, Director  
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John Kiesow, State Registrar  
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Division of Public Health

**Pronouncement of Death Regulations Update due to 2003 Wisconsin Act 273  
Hospice Nurse Pronouncement of Death**

The purpose of this memorandum is to provide an update on pronouncement of death regulations due to the enactment of 2003 Wisconsin Act 273.

**IMPORTANT INFORMATION**

**What You Need to Know Before You Implement Hospice R.N. Pronouncement of Death**

On May 1, 2004, a new law went into effect, giving registered nurses the ability to pronounce death in certain circumstances. **This memo serves to clarify some of the issues and misconceptions** that have arisen in light of the change in law. A copy of 2003 Wisconsin Act 273 can be found at:  
<http://www.legis.state.wi.us/2003/data/acts/03Act273.pdf>. If you receive this memo in a hard copy version, a copy of the new law is attached.

**Summary of the New Law:**

The new law allows **registered nurses working in hospice programs to pronounce death** under certain conditions. The only other parties allowed to legally pronounce death in Wisconsin are doctors, Coroners/Medical Examiners and Deputy Coroners/Medical Examiners. The new law also requires the filing of a Notice of Removal of a Human Corpse (NOR) (HCF 5043) for hospice deaths occurring at a residence or CBRF. Prior law required the form to be filed for a hospice death if it occurred in a hospital,

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nursing home or stand-alone hospice facility but not for home or CBRF deaths. If you are receiving this memo in a hard copy version, a sample copy of that form is attached. If you are receiving this memo in an e-mail, a separate form document is attached.

### **Who May Now Pronounce Death Under the New Law:**

In addition to physicians, Coroners, Medical Examiners and Deputy Coroners/Medical Examiners, a nurse may pronounce death under the following circumstances:

1. The nurse is a registered nurse (**R.N. licensed in Wisconsin**, and
2. The R.N. is **employed by or under contract to a Wisconsin-licensed hospice program**, and
3. The decedent **dies while under hospice care and is under the general care of a physician at the time of death.**

Technically, a hospice may now initiate the death certificate (see the last paragraph under Important Restrictions and Considerations). However, this authority is rarely used by any of the institutions that have had rights to do so. Since a majority of funeral homes initiate the death certificate using a computer software program, it is impractical for institutions, including hospice, to begin the death certificate. Therefore, the Vital Records Section will not issue blank death certificates to hospices.

### **Important Restrictions and Considerations:**

#### **For pronouncement of death:**

1. **An R.N. who is not employed by a Wisconsin-licensed hospice program cannot pronounce death.** This situation is still covered under the original pronouncement of death instructions. The R.N. calls a physician for pronouncement of death.
2. **A hospice R.N. cannot pronounce death for a patient who is not under hospice care** at the time of death. Again, a physician (or coroner/medical examiner) must be called for pronouncement of death.
3. **Other non-physician health care professionals** (e.g., a physician assistant, LPN or paramedic) **cannot pronounce death.**
4. As is true for all other authorized parties who perform legal pronouncements of death, **the hospice R.N. pronouncing death cannot be an immediate relative of the decedent.**

**A hospice R.N. cannot sign the medical certification of the death certificate and cannot sign as the person acting as a funeral director.**

### **New Requirements for Filing Notice of Removal (NOR) Forms**

1. The new law requires hospices to file **NOR forms for deaths that occur while the patient is under hospice care** (even for home, Adult Family Home or Community Based Residential Facility deaths) **no matter who pronounces death.**
2. The NOR is technically supposed to be started by the funeral director. However, the hospice R.N. may initiate the document (just as hospitals and nursing homes currently do) if the funeral director and hospice personnel believe that it is in the best interest of all parties to process the document that way. The Bureau of Health Information and Policy will supply either a hardcopy master or an electronic (Word) file NOR to hospice organizations requesting the form.
3. No matter who initiates the NOR form, it **must be signed by both the hospice personnel and the funeral director.**
4. The hospice must send the completed NOR form to the local registrar (the Register of Deeds or, in the case of a death in the city of Milwaukee or West Allis, to the designated Health Office) within 24 hours of death.

5. Since **NOR forms cannot be pre-signed**, the hospice worker must either wait for the funeral director to arrive or return to the home to collect the completed NOR so that it can be filed within the legal time frame.
6. **The hospice worker must make sure that only a Wisconsin licensed funeral director (or an immediate family member) removes the body for disposition purposes.** Family members can conduct the funeral but they must handle the transport and disposition themselves (they can transport to a crematory).

### **Reporting Deaths to Coroners and Medical Examiners**

1. Section HFS 135.08, Wis. Admin. Code, directs a county Coroner or Medical Examiner to establish procedures for the pronouncement of death outside of a hospital or nursing home in that county. Those procedures must not conflict with the law that now permits a hospice R.N. to pronounce death under certain conditions. However, the procedures may direct the pronouncer to notify the Coroner or Medical Examiner of non-hospital, non-nursing home deaths and may specify circumstances under which the Coroner or Medical Examiner will respond to the death scene.
2. Each hospice worker must know the rules for reporting home deaths in the counties served, as well as the statutory requirements for reporting deaths that are listed in Wis. Stat. § 979.01.

### **Notes on Reporting Deaths to Coroners and Medical Examiners and Health Insurance Portability and Accountability (HIPAA) Requirements:**

1. **A Coroner or Medical Examiner does not need consent for release of medical information pursuant to a death notification or investigation under HFS 135.08, or under Wis. Stats. §§ 979.01 or 979.10** (investigation and body examination required for cremation permit). HIPAA exempts these activities from consent requirements.
2. Some counties have **Coroner/Medical Examiner "hospice advance notification registries"**. In those counties, the Coroner/Medical Examiner maintains a pre-death notification for residential hospice deaths. Participation in that registry allows the Coroner/Medical Examiner to treat the death as an anticipated death that results in a reduced death-scene response by that office. In those cases, the practice **may continue with the written consent of the patient**. The Bureau of Health Information and Policy will supply a model consent form to each Coroner/Medical Examiner.

### **Penalty Advisements:**

1. The following are misdemeanors (per Wis. Stats. §§ 69.24 and 979.01 (2) and could result in a fine of not more than \$1,000 or imprisonment for 90 days or both:
  - a. Failure to file Notice of Removal forms.
  - b. Allowing an unauthorized person to remove a body for disposition.
  - c. Failure to comply with reporting requirements under Wis. Stat. § 979.01 (reporting deaths to the Coroner/Medical Examiner).

If you have questions regarding this memo, please contact Marianne Missfeldt, Home Health and Hospice Nurse Consultant at (715) 836-4036 or missfml@dhfs.state.wi.us or you may contact Peggy L. Peterson at (608) 267-7812.

cc: Medical Examiners/Coroners, Funeral Directors, Local Vital Records Registrars